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**INFORMATION SHEET**  
**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS**  
**RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK**  
**COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:** NAE  
**FILE NUMBER:** NAE-2004-3591

**REGULATORY PROJECT MANAGER:** Rose **Date:** 8/26/04

**PROJECT REVIEW/DETERMINATION COMPLETED:** **In the office**    (Y) **Date:** 8/20/04  
**At the project site**    (Y) **Date:** 8/21/04

**PROJECT LOCATION INFORMATION:**  
**State:** Connecticut  
**County:** Windham, Killingly, CT  
**Center coordinates of site by latitude & longitudinal coordinates:** N41° 47.131' W72° 39.858'  
**Approximate size of site/property (including uplands & in acres):** 85 ac  
**Name of waterway or watershed:** Five Mile River, Quinebaug River

**SITE CONDITIONS:**

Type of aquatic resource <sup>1</sup>	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands									
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond	X								
Other water (identify type)									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup> :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?				X	
Is or would be used as habitat by other migratory birds that cross state lines?				X	
Is or would be used as habitat for endangered species?		X			
Is used to irrigate crops sold in interstate commerce?		X			

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary    Or Approved X

**ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):**

5. The site is an 85 acre developed industrial facility formerly owned and operated by a glass manufacturer. The wetland under consideration is a 23,306 sf fire pond identified as Wetland 2, which is proposed to be filled in association with the redevelopment of the industrial parcel in Killingly, Connecticut. The site is bordered to the east by Interstate 395, to the south and west by the Five Mile River and to the north by CT Route 101. There is no defined inlet or outlet and the pond is not hydrologically connected to other waters or adjacent wetlands. The water level in the pond is artificially maintained via a pump. A 1934 aerial photo and a 1946 USGS quadrangle map indicate that a larger open water feature in the current location of the fire pond existed prior to development of the site in 1957. In these early depictions the pond also appeared to be hydrologically isolated from the nearby Dayville Brook, Five Mile River and their adjacent wetland areas. The fire pond is located over 1000'

away from the nearest watercourse, is completely surrounded by developed industrial area. It is generally void of any bordering vegetation other than invasive shrubs and was formerly used to treat contact cooling water containing oil resulting in degradation. Consequently, it does not appear to have a biological connection to nearby waters and wetlands associated with the Five Mile River or Dayville Brook. There is no reasonable nexus to interstate commerce.

Other waters and wetlands that are federal jurisdictional wetlands/waters are present at the site:

- a. Wetland 1 – 3.5 acre Phragmites dominated emergent wetland and forested wetland bordering the Five Mile River.
- b. Wetland 3 – 1.9 acre shallow open water system bordered by scrub/shrub wetland and palustrine broad leaf deciduous forest created by a beaver dam at an existing culvert outlet.
- c. Wetland 1 A and 1 C are small (<0.25 ac) depressional wetlands associated with Wetland 1 and the Five Mile River.
- d. The open water area should not be considered a water of the United States.

These areas are not proposed to be disturbed in associated with redevelopment of the site.